IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 8667 of 2004(F)

OS.469/1992 of PRL.SUB COURT,THRISSUR
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PETITIONER:

V.P.DAVIS, S/O.POULOSE,
VADAKKETHALA OUTHOODAN HOUSE, P.O.KANDASSANKADAVU,
KARAMUKKU VILLAGE 680 613.

BY ADV. SRI.SHOBY K.FRANCIS
SMT.AGI SHOBY

RESPONDENTS:
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1. **THE BANK OF INDIA,**
   KANDASSAMKADAVU BRANCH.

2. **SISILY ANTONY, W/O.LATE ANTONY,**
   CHALAKUDIKKARAN HOUSE, MANJAPRA ROAD, S.N.D.P.
   JUNCTION, ANGAMALI P.O. ERNAKULAM.

3. **ANNETT GEORGE, PANIKULAM HOUSE,**
   KOODAPPUZHA, CHALAKKUDI P.O.
   THRISSUR DISTRICT.

4. **LINCY JOHNSON, ERINCHERY HOUSE, MANNUTHI**
   P.O. THRISSUR.

5. **SHINY PASTO AMBOOKKARAN**
   C/O.POULOSE AMBOOKKARAN, CHALAKKUDY WEST,
   THRISSUR.

6. **NIMMY RAPHEL, MACHERY HOUSE,**
   N.H. P.O.OLLOOR, THRISSUR.

7. JOSEPH ANTONY, P.B.NO.60081,
DUBAI, U.A.E.

8. MARIYAMMA JOSE, W/O.JOSE PAUL,
KINATTINGAL HOUSE, CHELAKKOTTUKARA P.O.
THRISSUR DISTRICT.

9. PAUL ANTONY, THEKKANATH HOUSE,
CHALAKUDIKKARAN HOUSE, S.N.D.P. MANJAPRA ROAD,
ANGAMALY P.O. THRISSUR.

10. KURIAN FRANCIS, S/O.P.A. PORINCHU,
PADIKKAL HOUSE, KORATHLANE, KIZHAKKEKKOTTA DESOM,
CHEMBOOKKAVU, THRISSUR.

BY ADV. SRI.V.CHITAMBARESH
SRI.T.C.SURESH MENON
SRI.M.P.RAMACHANDRAN NAIR
SRI.DEVAN RAMACHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.8667/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER PASSED BY THE CONSUMER FORUM THRISSUR DT 3.1.02 IN OP. NO.1279/98.

EXT.P2(a):- COPY OF THE EP. 546/02 DT. 25.11.02 FILE BY THE PETITIONER BEFORE THE SUB COURT, THRISSUR.

EXT.P2:- COPY OF THE POP. 34/2000 FILED BY THE PETITIONER AGAINST T RESPONDENT 2 TO 9 PENDING BEFORE SUB COURT, THRISSUR DT. 2.9.2000.

EXT.P3:- COPY OF THE ENCUMBRANCE CERTIFICATE DT 23.12.02 ISSUED TO THE PETITIONER.

EXT.P4:- COPY OF THE AGREEMENT FOR SALE EXECUTED BETWEEN PETITIONER AND DECEASED T.V.ANTONY DT. 13.7.98.

EXT.P5:- COPY OF THE SALE PROCLAMATION NOTICE DT. 15.1.04 ISSUED BY THE SUB COURT, THRISSUR.

EXT.P6:- COPY OF THE EA. 193/04 DT. 13.2.04 IN EP. 187/99 FILED BY THE PETITIONER BEFORE THE SUB COURT, THRISSUR.

EXT.P7:- COPY OF THE EA. 194/02 DT. 13.2.04 IN EP. 187/99 IN OS. 469/92 FILED BY THE PETITIONER BEFORE THE SUB COURT,. THRISSUR./

EXT.P8:- COPY OF THE EA. 195/04 DT. 13.2 04 FILED BY THE PETITIONER BEFORE THE SUB COURT, THRISSUR IN EP.187/99 IN OS. 469/92.

/TRUE COPY/

P.A. TO JUDGE

tss

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 8667 of 2004

Dated this the 6th day of August , 2007

JUDGMENT

This writ petition is remaining defective on the reason that the 4th respondent has not been served with notice. But as rightly submitted by Sri.Chithambaresh, 4th respondent is only one of the legal heirs of the deceased judgment debtor. The other legal heirs of the deceased judgment debtor are already before this court. 4th respondent's interest can be represented by the other legal heirs of the deceased judgment debtor, who have already been served.

2. The relief sought for in this writ petition cannot be granted since they are beyond the contours of this court's supervisory jurisdiction under Article 227 of the Constitution. The remedy of the petitioner, it appears to me, is to file regular application for setting aside sale under Rule 90 of Order 21 CPC. It is open to the petitioner to pursue that remedy.

The writ petition will stand dismissed. However, order of stay presently passed will continue for another one month.

PIUS C. KURIAKOSE,

JUDGE.

dpk

dpk